

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TYREK DUBOSE,

Plaintiff,

-against-

C.O. JIMINEZ; C.O. HARKINS; C.O. TRACEY;  
JOHN DOE 1; DEL BIANCO; C.O. ORTIZ; C.O.  
SERRINGERER; C.O. PRINCE; C.O. ALBERT;  
C.O. LOPEZ; SGT. NIENSTEDT; SGT.  
FIGUERORA; C.O. WALDEN; NURSE PITT;  
C.O. DREXLER; C.O. BIANCHI; C.O. LOPEZ;  
JOHN DOE 2; C.O. KITSON; SGT. SANTOS;  
C.O. DOWNER; C.O. BUCKHAM; SGT.  
CAMPBELL; NURSE ADMINISTRATOR  
OSSELMAN; NURSE ADMINISTRATOR  
FURCO; COMMISSIONER'S HEARING  
OFFICER MAYES; C.O. MORALES;  
SUPERINTENDENT BURNETT; ANTHONY  
RODRIGUES; DONALD VENETTOZZI;  
DEPUTY SUPERINTENDENT WOOD; ORC  
LOSI; SGT. CARBONE; C.O. LAVALLE; C.O.  
PIGUET; C.O. NELSON,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 4-5-22

22-CV-2124 (VB)

ORDER OF SERVICE

VINCENT L. BRICCETTI, United States District Judge:

Plaintiff, currently incarcerated at Fishkill Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants violated his rights. By order dated March 30, 2022, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis*.<sup>1</sup>

<sup>1</sup> Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed *in forma pauperis*. See 28 U.S.C. § 1915(b)(1).

## DISCUSSION

### A. Service on Named Defendants

Because Plaintiff has been granted permission to proceed IFP, Plaintiff is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served summonses and the complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App’x 50, 52 (2d Cir. 2010) (“As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals’ failure to effect service automatically constitutes ‘good cause’ for an extension of time within the meaning of Rule 4(m).”).

To allow Plaintiff to effect service on Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for the following defendants: Correction Officers Jiminez, Harkins; Tracey, Del Bianco, Ortiz, Serringer, Prince, Albert, Lopez, Walden, Drexler, Bianchi, Kitson, Downer; Buckham, Morales, Lavalley, Piguet, and Nelson; Sergeants Figuerora; Santos; Campbell, Carbone, and Nienstedt; Nurse Pitt, and Nurse Administrators Osselman and Furco;

Commissioner's Hearing Officer Mayes; Superintendent Burnett; Acting Director of Special Housing Units Anthony Rodrigues; Donald Venettozzi; Deputy Superintendent Wood; and Offender Rehabilitation Coordinator Losi.<sup>2</sup> The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

**B. Local Civil Rule 33.2**

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court's website under "Forms" and are titled "Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents." Within 120 days of service of the complaint, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.<sup>3</sup>

**CONCLUSION**

The Clerk of Court is further instructed to complete the USM-285 forms and deliver to the U.S. Marshals Service all documents necessary to effect service on the following Defendants: Correction Officers Jiminez, Harkins; Tracey, Del Bianco, Ortiz, Serringer, Prince, Albert, Lopez, Walden, Drexler, Bianchi, Kitson, Downer, Buckham, Lavalley, Piguet, Morales, and

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<sup>2</sup> Plaintiff has not supplied sufficient information for the New York State Department of Corrections and Community Supervision to identify the John Doe defendants and the Court therefore does not at this stage ask the New York State Attorney General to attempt to identify these defendants.

<sup>3</sup> If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

Nelson; Sergeants Figuerora; Santos; Campbell, Carbone, and Nienstedt; Offender Rehabilitation Coordinator Losi; Nurse Pitt, and Nurse Administrators Osselman and Furco; Commissioner's Hearing Officer Mayes; Fishkill Superintendent Burnett and Deputy Superintendent Wood; Donald Venettozzi; and Anthony Rodrigues.

Local Civil Rule 33.2 applies to this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: April 4, 2022  
White Plains, New York



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VINCENT L. BRICCETTI  
United States District Judge

**DEFENDANTS AND SERVICE ADDRESSES**

1. Correction Officer Jiminez  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
2. Correction Officer Harkins  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
3. Correction Officer Tracey  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
4. Correction Officer Del Bianco  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
5. Correction Officer Morales  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
6. Correction Officer Ortiz  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
7. Correction Officer Serringer  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
8. Correction Officer Prince  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
9. Correction Officer Albert  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307

10. Correction Officer Lopez  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
11. Correction Officer Walden  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
12. Correction Officer Drexler  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
13. Correction Officer Bianchi  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
14. Correction Officer Kitson  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
15. Correction Officer Downer  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
16. Correction Officer Buckham  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
17. Correction Officer Lavalie  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
18. Correction Officer Piguet  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
19. Correction Officer Nelson  
Fishkill Correctional Facility

- 18 Strack Drive  
Beacon, NY 12508-0307
20. Sergeant Nienstedt  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
21. Sergeant Figueroa  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
22. Sergeant Santos  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
23. Sergeant Campbell  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
24. Sergeant Carbone  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
25. Nurse Pitt  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
26. Nurse Administrator Osselman  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
27. Nurse Administrator Furco  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
28. Commissioner's Hearing Officer Mayes  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307

29. Superintendent Edward Burnett  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
30. Anthony Rodrigues  
Acting Director of Special Housing Units  
The Harriman State Campus, Building 2  
1220 Washington Avenue  
Albany, NY 12226-2050
31. Donald Venettozzi, Director  
DOCCS Special Housing and Inmate Disciplinary Programs  
The Harriman State Campus, Building 2  
1220 Washington Avenue  
Albany, NY 12226-2050
32. Deputy Superintendent Wood  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307
33. Offender Rehabilitation Counselor Losi  
Fishkill Correctional Facility  
18 Strack Drive  
Beacon, NY 12508-0307